

JUN 15 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

DANA RUSSWORM,

Plaintiff - Appellant,

v.

JAMES A. YATES; et al.,

Defendants - Appellees.

No. 05-17404

D.C. No. CV-05-00649-AWI/LJO

MEMORANDUM^{*}

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, District Judge, Presiding

Submitted June 5, 2006^{**}

Before: CANBY, T.G. NELSON and KLEINFELD, Circuit Judges.

Upon review of the record and appellant's opening brief, this court hereby summarily affirms the district court's order denying appellant's premature motion for preliminary injunctive relief. *See United States v. Hooton*, 693 F.2d 857 (9th

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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Cir. 1982) (per curiam) (summary affirmance appropriate where result is clear from face of record); *see also*, Fed. R. Civ. P. 65 (court can't grant preliminary injunctive relief prior to service on opposing side).

AFFIRMED.